

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3135 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SURESH THAKORELAL TANKARIA

Versus

CENTRAL AEXCISE & CUSTOMS DEPARTMENT

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Appearance:

MR MB GANDHI for Petitioner

Mr B B Naik, for the respondents

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/08/96

ORAL JUDGEMENT

This Special Civil Application has been filed by petitioner-Suresh Thakorlal Tankaria under Article 226 of the Constitution of India, seeking direction to the respondents to implement the assessment made by the CPWD for the period prior to 9.9.1993. A further prayer has been made that direction may be given to the respondents to pay the rent regularly for the year 1992 and subsequent years as per the rent assessed by the CPWD.

It is not in dispute that under the certificate dated 9.9.1988, the CPWD has assessed rent of the subject premises between Rs.4,845/- and Rs. 5,227/-. The assessment has been made in accordance with the revised principles of valuation and as per the prevailing market rates in the locality. It would thus be convenient to fix the rent of the premises taking average of the aforesaid two figures given in the certificate which comes to Rs.5,036/-. The respondents have no objection in fixing the rent on the aforesaid basis. Similarly, it is also not in dispute that under the certificate dated 7.12.1993, rent of the subject premises has been assessed as per the principles laid down by the Directorate at the rate of Rs. 6,928/- and as per the prevailing market at the rate of Rs.9,226/-. Thus, taking the average of the above two figures, rent could conveniently be fixed at Rs.8,077/- per month for the period 1992-93. As per the certificate dated 17.12.1994 for the period 1993 onwards, the assessment is made as per the recognised principles at Rs.9,293/- per month and as per the market rate at Rs.9,931/- per month. Thus, it would be convenient to fix the average rent at Rs.9,612/- per month to be paid for a period of 5 years. It is stated that certain amount of rent has been paid to the petitioner under the interim orders of this Court.

2. In view of the aforesaid, this Special Civil Application is allowed. The respondents are directed to fix the rent as indicated above for the different periods. The amount be calculated accordingly after adjusting the amount paid in excess or short. If any amount had been paid in excess, the same shall be adjusted in future rent. Average rent as indicated above under certificate of 1993 shall remain in force for a period of 5 years and the respondents shall regularly pay the rent to the petitioners. Calculations will be undertaken and the payment, if any, due shall be paid to the petitioner within a period of two months from the date of receipt of the rent.

Rule is made absolute to the aforesaid extent with no order as to costs.

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